

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**BLACKWATER DRAW DAIRY, LLC,
A New Mexico Limited Liability Company,**

Plaintiff,

vs.

No. 2:11-cv-00846-RB-WDS

**KEITH LAMBRIGHT and
SHIPSHEWANA AUCTION, INC.,
An Indiana Corporation,**

Defendant(s).

**AMENDED ORDER DENYING PLAINTIFF'S MOTION
FOR AN ORDER TO SHOW CAUSE**

THIS MATTER comes before the Court on Plaintiff's Motion For an Order to Show Cause. [Doc. 61] Plaintiff seeks an order from the Court requiring J.T. Randle and Willemsen Dairy to show cause why they did not comply with subpoenas served by Plaintiff. Defendants did not file a brief in this matter, but Plaintiff filed a reply brief noting that he'd been contacted by an attorney for Willemsen Dairy and they would be complying with the subpoena. Having considered the submissions, the applicable law, and being otherwise fully advised, this Court finds that Plaintiff's motion is not well taken and it is denied.

DISCUSSION

This case arises from a dispute over the sale of 650 dairy cows for approximately \$1.4 million. Plaintiff Blackwater alleges that it hired Defendants to sell Plaintiff's cows. Defendants respond by acknowledging that they did sell 650 cows, but they allege that the cows belonged to Defendants, not Plaintiff. This motion arises from two subpoenas sent to Willemsen Dairy and J.T. Randle. Neither subpoena was responded to, and Plaintiff is attempting to have the Court order

compliance with the subpoenas.

The subpoenas, however, are invalid on their face and are hereby quashed. Rule 45(a)(2)(C) provides that a “subpoena must issue as follows: for production or inspection, if separate from a subpoena commanding a person’s attendance, from the court for the district where the production or inspection is to be made.” The subpoenas referenced in this motion were all issued by the United States District Court for the District of New Mexico, but were sent to Willemsen Dairy in Franklin, Indiana, and J.T. Randle in Hico, Texas. Accordingly, the subpoenas are invalid and counsel for Plaintiff is directed to send a letter to each of the subpoena recipients formally withdrawing the subpoenas.

IT IS THEREFORE ORDERED that Plaintiff’s Motion For an Order to Show Cause [61] is DENIED.

A handwritten signature in black ink, appearing to read 'W.D. Schneider', is written above a horizontal line.

W. DANIEL SCHNEIDER
United States Magistrate Judge